

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1003 of 1998

with

FIRST APPEALNo 1004 of 1998

with

CIVIL APPLICATION NOS. 4536/98 AND 4537/98

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE K.M.MEHTA

- 1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

GSRTC

Versus

SUSHMABEN SURENDRASINH RAVAT

Appearance:

MRS VASAVDATTA BHATT for Petitioner
MR ANAND L SHARMA for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT

and

MR.JUSTICE K.M.MEHTA

Date of decision: 10/10/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

Both these appeals arise out of common judgement arising out of common accident. Therefore, they are being disposed of by this common judgement by us.

2. The appellant in both these appeals is original opponent No. 2, Gujarat State Road Transport Corporation and owner of the bus bearing registration No. GRU 6952 involved in the accident which was driven by original opponent No. 1. On 13.12.1987 there was an accident at about 11.15 a.m. The said offending S.T. bus dashed against scooter bearing registration No. GJJ 2475 which was proceeding from Ahmedabad to Baroda. The deceased Nandansinh Mohansinh and his deceased friend Surendrasinh Jagatsinh were proceeding on the scooter. The scooter was driven by the deceased Surendrasing whereas his friend Nandansinh was sitting on pillion. The offending S.T. bus coming from opposite direction dashed against the scooter near Sarsa road on Ahmedabad-Baroda highway. The impact of the S.T. bus was so violent that the scooter was dragged for a long distance and caused serious injuries to the driver and the pillion rider who succumbed to the same. Therefore, heirs and legal representatives of the deceased persons filed two claim petitions.

3. M.A.C.P. No. 715 of 1988 was filed by five claimants, heirs and legal representatives of Nandansinh whereas M.A.C.P. No. 261 of 1988 was filed by three claimants, heirs and legal representatives of Surendrasinh. The original claimants filed the claim petition before the Motor Accident Claims Tribunal (Aux. IV), Kheda at Nadiad, inter alia, contending that the driver of the S.T. bus, original opponent No. 1, respondent No. 4 in the appeals, was rash and negligent and responsible for the accident.

4. The Tribunal, upon assessment and analysis of the evidence, awarded an amount of Rs. 2,28,000/- by way of compensation by both the recognised heads in M.A.C.P. No. 715/1988 whereas the Tribunal awarded an amount of Rs. 3,46,000/- by way of compensation in M.A.C.P. No. 261 of 1988 with interest at the rate of 15% from the date of application till payment in each case under the common judgement challenged before us, which came to be recorded on 11.9.1997.

5. At the time of admission, copies of the

documentary evidence and oral evidence led by the parties and relied on by the Tribunal were placed for our examination. After having heard, learned advocate Mrs. Vasavdatta Bhatt for the appellant and Mr. Anand Sharma in caveat for the respondents, at the admission stage, and, dispassionately, examining the documentary evidence, we are of the clear opinion that both the appeals are without any substance and are required to be dismissed at the threshold.

6. The amount of compensation, in case of fatal injuries, is required to be examined and awarded in the light of the two recognised heads: (1) pecuniary loss like that loss of dependency value and (2) loss to the estate including the loss of expectation of life. The Tribunal has considered the evidence in the light of the recognised heads.

7. In so far as the deceased Nandansinh was concerned, his birth date is 15.7.1956. Thus, he was aged about 31 years at the relevant time. He had passed M.A. B.Ed. examination and he was serving in Mill. He was to join teaching job. He was earning Rs. 1500/- per month and on his joining teaching job, he would have earned an amount between Rs. 7000/- and Rs. 10,000/-. The Tribunal, for the purpose of assessment, has considered loss of dependency at Rs. 1000/- multiplied by 12 equal to Rs. 12,000/- per annum. Therefore, total loss of the utility of the deceased to the common family fund or the amount of compensation payable for loss of dependency is assessed by Rs. 12,000/- multiplied by 18 equal to Rs. 2,16,000/-. Rs. 12,000/- was awarded under the head of loss of expectation of life and funeral charges. In our opinion, the amount of Rs. 2,28,000/- awarded by the Tribunal with interest at the rate of 15% interest per annum from the date of petition till realisation, in the facts and circumstances, could not be said to be unjust or unreasonable. We, therefore, find no substance in the appeal challenging the amount of compensation of Rs. 2,28,000/-.

8. In so far as the amount of compensation in case of death of Surendrasinh is concerned, the Tribunal has awarded Rs. 3,46,000/- by way of compensation under both the heads. An amount of Rs. 36,000/- is awarded to the widow. An amount of Rs. 1,20,000/- is awarded to the mother whereas Rs. 1,90,000/- is awarded to the defendant unmarried sister by the Tribunal with interest.

9. We are of the opinion that the rationale adopted in awarding different amount of compensation to different

claimants may be questionable but the overall assessment of compensation, in the light of the facts and circumstances of the case, could hardly be questioned since the deceased was hale and hearty in the prime of his youth and earning member of the family, who, even according to the Tribunal, was earning at the relevant time an amount of Rs. 3000/-, would have earned more amount on advancing age. Therefore, considering the income prevailed on the date of accident and the prospective income of the deceased, the compensation awarded by the Tribunal is quite just and reasonable.

10. In the light of the aforesaid facts and circumstances emerging from the record of the present case and the discussions, we are of the clear opinion that both the appeals are meritless and require to be dismissed at the admission stage. Accordingly, they are dismissed confirming the awards recorded in both the claim petitions in fatal injury case without any costs.

In view of the order passed in the appeals, no orders are passed on the Civil Applications.

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